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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,542	12/11/2003	Stephen C. Wardlaw	5169-0011-1-1	7739

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EXAMINER	
BHAT, ADITYA S	

ART UNIT	PAPER NUMBER
2863	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/733,542	WARDLAW ET AL.	
	Examiner	Art Unit	
	Aditya S. Bhat	2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,8-10,14 and 19-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,8-10,14 and 19-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/16/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 8-10, 14 and 19-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Okuno et al. (USPN 6,629,060)

With regards to claim 1, Okuno et al. (USPN 6,629,060) teaches a method for providing quality control in an analytical instrument, said method comprising the steps of:

sending one or more quality control specimens to a operator of the analytical instrument; (Col. 4, lines 8-10)

directly or indirectly communicating control data to the analytical instrument, wherein the control data includes characteristic values for the specimens; (Col. 4, lines 8-10)

analyzing the quality control specimen using the analytical instrument and thereby creating instrument analysis data; (Col. 4 lines 10-17),

performing an evaluation within the analytical instrument of the instrument analysis data relative to the control data to determine functional status of the analytical instrument; (col. 4, liens 8-23) and

providing notice to an operator regarding the functional status of the analytical instrument. (Col. 4, lines 21-23).

With regards to claim 19, Okuno et al. (USPN 6,629,060) teaches a method for providing quality control in an analytical instrument, said method comprising the steps of:

sending one or more quality control specimens to a operator of the analytical instrument (Col. 4, lines 8-10)

directly or indirectly communicating control data to the analytical instrument, wherein the control data includes acceptable operating standards (Col. 4, lines 8-10)

analyzing the quality control specimen using the analytical instrument and thereby creating instrument analysis data (Col. 4 lines 10-17);

performing an evaluation within the analytical instrument of the instrument analysis data relative to the control data to determine functional status of the analytical instrument; (col. 4, liens 8-23) and

providing notice to the operator regarding the functional status of the analytical instrument (Col. 4, lines 21-23).

With regards to claim 20, Okuno et al. (USPN 6,629,060) teaches a quality control system for analytical instruments, said system comprising:

one or more quality control specimens, each having one or more predetermined characteristic values and an identifier that can identify the quality control specimen (Col.3 lines 41-45);

an analytical instrument, having an analyzer for analyzing the one or more quality control specimens and thereby create instrument analysis data that includes one or more sensed characteristic values (Col. 4 lines 10-17) and

means for notifying an operator regarding the functional status of the analytical instrument (Col. 4, lines 21-23).

With regards to claim 24, Okuno et al. (USPN 6,629,060) teaches method for providing quality control in an analytical instrument, said method comprising the steps of:

providing one or more quality control specimens and control data that includes characteristic values for the one or more quality control specimens, to an operator of the analytical instrument; (Col. 4, lines 8-10)

analyzing at least one of the one or more quality control specimens and thereby creating instrument analysis data (Col. 4 lines1-15), and

providing notice to the operator regarding the functional status of the analytical instrument (Col. 3, lines 10-17).

With regards to claim 2, Okuno et al. (USPN 6,629,060) teaches the evaluation being performed without operator input (Col. 4, lines 7-15).

With regards to claim 3, Okuno et al. (USPN 6,629,060) teaches the evaluation is performed using routines preprogrammed within the analytical instrument (Col. 4, lines 25-27).

With regards to claim 5, Okuno et al. (USPN 6,629,060) teaches the step of performing an evaluation within the analytical instrument of includes a comparison of

the characteristic values for the one or more quality control specimens and one or more characteristic values created within the instrument analysis data (Col. 4, lines 5-23).

With regards to claim 8 Okuno et al. (USPN 6,629,060) teaches the control data is communicated to the analytical instrument from a remote source via an electronic communications connection (Col. 7, lines 4-10).

With regards to claim 9, Okuno et al. (USPN 6,629,060) teaches communicating to the analytical instrument that the quality control specimen is for quality control purposes (Col. 4, lines 7-10).

With regards to claim 10, Okuno et al. (USPN 6,629,060) teaches communicating to the analytical instrument that the quality control specimen is for quality control purposes is performed without operator input (Col. 4, lines 7-15).

With regards to claim 14, Okuno et al. (USPN 6,629,060) teaches the step of providing a preprogrammed schedule for quality control procedures to analytical instrument (Col. 6, lines 3-5).

With regards to claim 19 Okuno et al. (USPN 6,629,060) teaches the step of providing a standardized utilizing quality control procedures (Col. 8, lines 13-15).

With regards to claim 21, Okuno et al. (USPN 6,629,060) teaches the means for performing an evaluation of the analytical instrument within the analytical instrument does not require input from an operator (Col. 4, lines 7-15).

With regards to claim 22, Okuno et al. (USPN 6,629,060) teaches evaluating the sensed characteristic values of the instrument analysis data using the predetermined characteristic values does not require input from an operator (Col.4, lines 8-15).

With regards to claim 23 Okuno et al. (USPN 6,629,060) teaches a standardized identifier displayed with the system that identifies the system as using quality control procedures (Col. 4, lines 9-10).

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5, 8-10, 14 and 19-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okuno et al. (USPUB 2004/0019460) teaches a Quality control and support method for analyzer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S. Bhat whose telephone number is 571-272-2270. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aditya Bhat

February 17, 2006

John Barlow
Supervisory Patent Examiner
Technology Center 2800